

**From:** Prudori, Tony (AADNC/AANDC)  
**To:** Murphy, Anne (AADNC/AANDC); Giancarlo, Marco (AADNC/AANDC)  
**Cc:** Bain, Diane (AADNC/AANDC); Commanda, Lynn (HC/SC); Preston, Andrew (EC); Didluck, David (AADNC/AANDC); Ather, A'Amer  
**Subject:** FED-PROV/MERCURY: 149 pushing CAN for "mercury home", new ON law for Remediation Panel, Trust fund  
**Date:** 15 November 2017 10:43:44  
**Attachments:** THUNDRBY-830452.PDF.DRF

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Also sharing with Health Canada, Environment Canada & DOJ for their situational awareness ...

**\*\* 149 CHIEF PUSHES CANADA FOR "MERCURY HOME"**

Grassy Narrows Chief Simon Fobister is calling on Canada to "step up and deal with this national issue," mentioning the proposed "mercury home" in particular. The Canadian Press says PMO has not responded with comment, but Minister Philpott's office is quoted saying "Ottawa is helping the First Nation access expertise and information from federal departments on the issue of mercury contamination (and) participating in discussions with the community and provincial partners to reform the Mercury Disability Board – a panel designed to implement terms of a settlement."

**\*\* ONTARIO LEGISLATING TRUST FUND, REMEDIATION PANEL**

Part of Bill 177, Stronger, Fairer Ontario Act (Budget Measures), 2017, which was introduced in the Ontario Legislature 14 Nov 2017, includes a schedule entitled the English and Wabigoon Rivers Remediation Funding Act, 2017 (Remediation Funding Act). The aim of the Remediation Funding Act is to allow Ontario's Environment minister to "establish a (\$85,000,000) Trust to fund the remediation of contaminants in the English and Wabigoon Rivers," and "establish a panel to advise the Minister on issues about the Trust and give directions to the Trustee about payments out of the Trust."

Under the Act, which takes effect when the Budget Measures act takes effect on Royal Assent, the Minister can name two representatives to the English and Wabigoon Rivers Remediation Panel, and Grassy & Wabaseemoong will be asked to appoint two members each. Any other FN that "has a historic relationship with the English or Wabigoon Rivers" may be asked to appoint a representative, but that rep will be a non-voting member of the panel. The Remediation Panel will help the Minister establish the Trust, direct how Trust funding is spent and report annually to the Minister on the Panel's activities. Decision-making is to be by consensus, but can also be via majority vote. The Panel will direct the Trustee to make payments for remediation work, overhead covering the Panel's & Trustee's work and reimbursement of Panel members' costs. The Trustee will also be expected to report annually as well.

If the Trust (which will not be part of the Consolidated Revenue Fund, more generally known as general revenue) falls below \$425,000, the Trustee can ask for a top-up to that amount from general revenue.

So far, Bill 177 was introduced in the Legislature yesterday (14 Nov 2017). Next steps: Second Reading (no date set) followed by Committee debate/discussion (no date set).

This is all based on public information, so feel free to share with anyone you think may be interested.

Submitted for your information,  
TP

Tony Prudori

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"The Risk of Insult is the Price of Clarity" Roy H. Williams

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Sources:

Canadian Press story, 14 Nov 2017

<https://www.theglobeandmail.com/news/politics/grassy-narrows-chief-urges-trudeau-to-confront-mercury-contamination-crisis/article36974249/>  
<http://thechronicleherald.ca/canada/1520569-confront-mercury-crisis-on-northern-ontario-first-nation-chief-urges-trudeau>

"Province introduces legislation to fund cleanup of mercury at Grassy Narrows," Toronto Star, 14 Nov 2017

<https://www.thestar.com/news/queenspark/2017/11/14/province-introduces-legislation-to-fund-cleanup-of-mercury-at-grassy-narrows.html>

Bill 177, Stronger, Fairer Ontario Act (Budget Measures), 2017 (Ontario Legislature site)

Bill Status: [http://www.ontla.on.ca/web/bills/bills\\_detail.do?locale=en&BillID=5316&detailPage=bills\\_detail\\_status](http://www.ontla.on.ca/web/bills/bills_detail.do?locale=en&BillID=5316&detailPage=bills_detail_status)

Text of full Bill (including Schedule 14 ): [http://www.ontla.on.ca/web/bills/bills\\_detail.do?locale=en&Intranet=&BillID=5316#Sched130](http://www.ontla.on.ca/web/bills/bills_detail.do?locale=en&Intranet=&BillID=5316#Sched130)

Bill 177, Schedule 14, English and Wabigoon Rivers Remediation Funding Act, 2017

[http://www.ontla.on.ca/web/bills/bills\\_detail.do?locale=en&Intranet=&BillID=5316#BK17](http://www.ontla.on.ca/web/bills/bills_detail.do?locale=en&Intranet=&BillID=5316#BK17)

7 page PDF at GCPedia: <https://goo.gl/tLcXsK>

CIDMS reference also attached to email

**From:** Tony Prudori  
**To:** Bain, Diane (AADNC/AANDC); Giancarlo, Marco (AADNC/AANDC); Murphy, Anne (AADNC/AANDC); Tony Prudori  
**Cc:** Cook, Bernadette (AADNC/AANDC); Preston, Andrew (EC); Cranton, Lee (HC/SC)  
**Bcc:** Prudori, Tony (AADNC/AANDC)  
**Subject:** FED-PROV/MERCURY: ONT commits \$85M to English-Wabigoon River remediation  
**Date:** 27 June 2017 20:26:36

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Haven't spotted the news release yet, but here's some of the details out so far ...

- \$85M committed, approved by Cabinet today (27 Jun 2017), announced day before David Suzuki visits Grassy Narrows
- remediation based on "comprehensive remediation plan" to start next year ("early 2018)
- OMOECC Minister Murray: "We have all of the clearance and approvals from the Treasury Board," and the fund will be managed by the province and Grassy Narrows and Whitedog ... (with a "joint governance" model of the fund, as well as language they can put in remediation work contracts, (which) will "(make) it very hard for someone in the future to mess with"

#### Sources

Ontario spending \$85-million to clean up mercury in two First Nation communities (Canadian Press)  
<https://www.theglobeandmail.com/news/national/ontario-spending-85-million-to-clean-up-mercury-in-two-first-nation-communities/article35482497/>

Ontario gives \$85 million to clean up 'gross neglect' at Grassy Narrows (Toronto Star)  
<https://www.thestar.com/news/gta/2017/06/27/ontario-gives-85-million-to-clean-up-gross-neglect-at-grassy-narrows.html>

Ontario announces \$85M for mercury cleanup near northern Ontario First Nations (CBC)  
<http://www.cbc.ca/news/canada/thunder-bay/ontario-mercury-cleanup-1.4180631>

All public info, so feel free to share with anyone you think would want to know.

TP  
fm home

**Pages 4 to / à 5**  
**are withheld pursuant to sections**  
**sont retenues en vertu des articles**

**21(1)(a), 21(1)(b)**

**of the Access to Information Act**  
**de la Loi sur l'accès à l'information**

**Pages 6 to / à 12**  
**are withheld pursuant to section**  
**sont retenues en vertu de l'article**

**21(1)(a)**

**of the Access to Information Act**  
**de la Loi sur l'accès à l'information**

**SCHEDULE 14**  
**ENGLISH AND WABIGOON RIVERS REMEDIATION FUNDING ACT, 2017**

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**Purpose**

**1** (1) The purpose of this Act is to provide for,

- (a) the funding of the remediation of contaminants in the English and Wabigoon Rivers;
- (b) the co-operative management of that funding by Ontario and the two First Nations that have been most directly and significantly affected by historic mercury contamination in the English and Wabigoon Rivers; and
- (c) an opportunity for other Indigenous communities that have a historic relationship with the English and Wabigoon Rivers to be involved in discussions in respect of that funding.

**Non-derogations**

(2) For greater certainty, nothing in this Act shall be construed so as to abrogate or derogate from any protection provided for aboriginal or treaty rights.

**Definitions**

**2** In this Act,

“aboriginal or treaty rights” means the existing aboriginal or treaty rights recognized and affirmed in section 35 of the *Constitution Act, 1982*; (“droits ancestraux ou issus de traités”)

“contaminant” means,

- (a) mercury in all of its forms, and
- (b) any other substances that may be prescribed in the regulations; (“contaminant”)

“Minister” means the Minister of Environment and Climate Change or such other member of the Executive Council as may be assigned the administration of this Act under the *Executive Council Act*; (“ministre”)

“panel” means the English and Wabigoon Rivers Remediation Panel established under section 3; (“comité”)

“regulations” means the regulations made under this Act; (“règlements”)

“remediation” includes post-remediation monitoring; (“assainissement”)

“Trust” means the English and Wabigoon Rivers Remediation Trust established under section 4; (“Fiducie”)

“trustee” means the trustee of the Trust. (“fiduciaire”)

**Panel**

**3** (1) A panel is established, to be known in English as the English and Wabigoon Rivers Remediation Panel and in French as Comité d'assainissement des rivières English et Wabigoon.

**Purposes**

(2) The purposes of the panel are to,

- (a) advise the Minister on,
  - (i) the establishment of the Trust,
  - (ii) the practices and procedures for the panel referred to in subsection (16),
  - (iii) the criteria for the payment of funds from the Trust referred to in subsection 8 (1), and
  - (iv) the development of remediation goals and objectives;
- (b) issue written directions to the trustee requiring the release of funds from the trust;
- (c) prepare the report described in section 11; and
- (d) perform other functions specified in this Act or required by the Minister.

**First Nation representatives**

(3) The Minister shall invite the band councils of each of the following First Nations to appoint two representatives to be members of the panel:

- 1. Grassy Narrows First Nation.
- 2. Wabaseemoong Independent Nations.

**First Nation representation**

(4) The band council of each First Nation mentioned in subsection (3) may, after receipt of an invitation from the Minister, appoint up to two representatives to be members of the panel.

**Other communities, representatives**

(5) Where an Indigenous community that has a historic relationship with the English or Wabigoon Rivers, other than a First Nation mentioned in subsection (3), has an interest in the remediation of the English or Wabigoon Rivers, the Minister may authorize a representative of that community to participate in one or more meetings of the panel.

**Not to vote, etc.**

(6) A person authorized under subsection (5) to participate in a meeting of the panel is not a member of the panel and may not vote on any matter considered by the panel.

**Ontario representative**

(7) The Minister may appoint up to two members to represent the interests of Ontario on the panel.

**Appointments at pleasure**

(8) A member of the panel serves at the pleasure of,

- (a) the band council of the First Nation the member represents, in the case of a member appointed under subsection (4); or
- (b) the Minister, in the case of a member appointed under subsection (7).

**Timing of invitations**

(9) The Minister shall issue the invitations under subsection (3) within 10 days after this section comes into force.

**Timing of appointments**

(10) Within 10 days after the invitations are issued, the Minister and the band council of each First Nation mentioned in subsection (3) shall each, if they wish to appoint representatives to the panel, endeavour to appoint one or two representatives.

**Chair and vice-chair**

(11) The members of the panel shall select a chair and vice-chair of the panel from among the members of the panel.

**Timing of selection**

(12) The members of the panel shall endeavour to hold the initial meeting of the panel and select the chair and vice-chair within 20 days following the expiry of the 10-day period provided for in subsection (10).

### **Timing of advice, remediation goals and objectives**

(13) The panel shall endeavour to provide the advice to the Minister in respect of the development of the remediation goals and objectives as soon as reasonably possible.

### **Quorum**

(14) Two-thirds of the members of the panel constitute a quorum.

### **How decisions reached**

(15) The panel shall attempt to reach consensus in respect of a matter before it, but where that is not possible, the determination of a matter before the panel shall be by majority vote.

### **Practices and procedures**

(16) The Minister may, after considering the advice, if any, of the panel, establish practices and procedures for the panel, including providing for,

- (a) means of dispute resolution including facilitation, mediation or arbitration;
- (b) the establishment of subcommittees to advise the panel; and
- (c) the means by which the panel and subcommittees make decisions, including procedures to be applied to take into account the views of each panel member in accordance with clause (19) (c).

### **Facilitator or mediator**

(17) Despite any practice or procedure established under subsection (16), the chair of the panel may invite a person to participate in one or more meetings of the panel to assist the panel by acting as a facilitator or mediator in respect of disputes related to the work of the panel.

### **Decisions of the panel**

(18) Decisions of the panel shall be made in accordance with the practices and procedures, if any, established under subsection (16).

### **Directions of the panel to trustee**

(19) A decision of the panel to issue a written direction to the trustee requiring the release of funds from the trust,

- (a) shall be made in accordance with the practices and procedures, if any, established under subsection (16);
- (b) shall be made in accordance with the criteria established under subsection 8 (1);
- (c) shall take into account the views of each panel member appointed under subsection (4) as to whether the aboriginal or treaty rights of the First Nation the member represents are likely to be disproportionately and adversely affected by the activities to which the direction relates; and
- (d) shall be communicated to the trustee by the chair or the vice-chair on behalf of the panel.

### **Dissolution**

(20) The Minister may, after seeking the advice of the panel, dissolve the panel if the Minister determines that the panel,

- (a) is no longer required because no further activities are required to address the presence of contaminants; or
- (b) is unable to carry out its functions.

### **Establishment of Trust**

**4** (1) The Minister shall establish in writing a trust to be known in English as the English and Wabigoon Rivers Remediation Trust and in French as Fiducie pour l'assainissement des rivières English et Wabigoon.

### **Advice of panel**

(2) Before establishing the Trust, the Minister shall seek the advice of the panel with respect to the Trust's terms and conditions.

### **Timeline**

(3) The Minister shall endeavour to establish the Trust, including causing the funds provided for in subsection 14 (1) to be paid into it, before April 1, 2018.

### **Purpose of Trust**

**5** The purpose of the Trust is to provide for funding the remediation of contaminants in the English and Wabigoon Rivers.



### **Terms of Trust**

6 (1) The Trust shall, on such terms and conditions as the Minister may specify after considering the advice, if any, of the panel, provide for the funding of the remediation of contaminants in the English and Wabigoon Rivers, including the following activities:

1. Preventing or reducing the risk of a discharge of contaminants.
2. Reducing the presence, concentration or bio-availability of contaminants, including their presence and concentration in fish.
3. Post-remediation monitoring.
4. Other remediation activities, consistent with the purpose of the Trust, that may be specified by the Minister.

### **Same**

(2) The Trust may provide for the following matters on such terms and conditions as may be specified by the Minister:

1. The funding of costs or reimbursement of expenses related to the activities of the panel, its members and persons from other Indigenous communities authorized under subsection 3 (5) to participate in the panel's meetings, including remuneration.
2. The reimbursement of expenses related to the administration of the Trust, including remuneration of the trustee.
3. The funding of costs of Grassy Narrows First Nation, Wabaseemoong Independent Nations and other Indigenous communities authorized under subsection 3 (5) to participate in the panel's meetings to support community engagement in connection with the work of the panel.
4. Other matters consistent with the purpose of the Trust.

### **Trustee**

7 (1) The Minister shall appoint a person who is regulated under the *Trust and Loan Companies Act* (Canada) as trustee.

### **Directions of panel**

(2) Subject to the terms of the Trust and subsections (3) and (4), the trustee shall comply with the written directions of the panel provided for in clause 3 (2) (b).

### **Directions, requirements**

(3) A direction of the panel provided for in clause 3 (2) (b) is not binding on the trustee unless it,

- (a) is signed by the chair or vice-chair of the panel; and
- (b) complies with the criteria established under subsection 8 (1).

### **Restriction, s. 14 (3) funds**

(4) If additional funds are paid into the Trust under subsection 14 (3), the trustee shall pay those additional funds from the Trust only for,

- (a) the funding of costs or reimbursement of expenses related to the activities of the panel, its members and persons from other Indigenous communities authorized under subsection 3 (5) to participate in the panel's meetings, including remuneration; or
- (b) the reimbursement of expenses related to the administration of the Trust, including remuneration of the trustee.

### **Directions in case of dissolution**

(5) Where the Minister has dissolved the panel under subsection 3 (20), the Minister may issue written directions to the trustee requiring the release of funds from the trust, and the trustee shall comply with those directions.

### **Consistency of directions**

(6) A direction issued by the Minister under subsection (5) must,

- (a) be consistent with the purpose of the Trust; and
- (b) comply with the criteria established under subsection 8 (1), with necessary modifications.

### **Criteria for payments from funds of Trust**

8 (1) Subject to the terms of the Trust, and after considering the advice, if any, of the panel, the Minister shall establish criteria to be used in making payments from the funds of the Trust, which may include technical criteria, standards and objectives.

### **Matters considered by panel**

- (2) When developing its advice to the Minister in respect of the criteria, the panel shall consider,
- (a) the best available scientific information;
  - (b) traditional ecological knowledge that has been offered; and
  - (c) the priority of the remediation activities that may need to be funded.

### **Not part of C.R.F.**

**9** Money received or held by the Trust shall not form part of the Consolidated Revenue Fund.

### **Report, trustee**

- 10** (1) The trustee shall, no later than June 1 in each year, provide a report in respect of,
- (a) the financial affairs of the Trust for the annual period ending on March 31 in the year in which the report is due;
  - (b) the disbursement of trust assets during that period; and
  - (c) any other information requested by the Minister.

### **Audited financial statements**

- (2) The report shall include a copy of the audited financial statements of the Trust.

### **Recipients of report**

- (3) The trustee shall provide the report to,
- (a) the Minister;
  - (b) the leadership of every Indigenous community that has participated in the work of the panel; and
  - (c) the chair of the panel.

### **Signature**

- (4) The report shall be signed by the trustee.

### **Tabling**

- (5) The Minister shall table the report in the Legislative Assembly.

### **Other reports, Minister**

- (6) The trustee shall provide the Minister with such other reports and information as the Minister may request.

### **Other information, panel**

- (7) The trustee shall provide the chair of the panel with such information as the chair requests.

### **Report, panel**

- 11** (1) The chair of the panel shall, on behalf of the panel, provide a report no later than June 1 in each year in respect of,
- (a) the activities funded by the Trust for the annual period ending on March 31 in the year in which the report is due;
  - (b) the balance of funds remaining in the trust as of March 31 in the year in which the report is due;
  - (c) a forecast of the expenditures from the Trust for the five-year period beginning April 1 in the year in which the report is due;
  - (d) a recommendation of whether additional funds will be required to fund the Trust and in what amount;
  - (e) a description of how the activities funded by the Trust have contributed to the remediation of the English and Wabigoon Rivers; and
  - (f) information requested by the Minister.

### **Recipients of report**

- (2) The chair of the panel shall provide the report to,
- (a) the Minister; and
  - (b) the leadership of every Indigenous community that has participated in the work of the panel.

### **Signature**

- (3) The report shall be signed by the chair of the panel.

### **Tabling**

(4) The Minister shall table the report in the Legislative Assembly.

### **Other reports**

(5) The chair of the panel shall provide the Minister with such other reports and information as the Minister may request.

### **Five-year report**

**12** (1) Promptly following the fifth anniversary of this Act coming into force, the Minister shall prepare a report on the success of the Act in achieving its purpose, together with any recommendations the Minister wishes to make.

### **Consultation**

(2) In preparing the report, the Minister shall,

- (a) consult with Grassy Narrows First Nation, Wabaseemoong Independent Nations and other Indigenous communities that have participated in the panel's work and include their views in the report; and
- (b) consult with any other person the Minister considers advisable, by any means the Minister considers advisable.

### **Tabling**

(3) The Minister shall table the report in the Legislative Assembly.

### **Public notice**

**13** The Minister shall make the reports described in sections 10, 11 and 12 available to the public on a website of the Government of Ontario and in any other manner that may be prescribed in the regulations.

### **Appropriation**

**14** (1) The amount of \$85,000,000 shall be paid out of the Consolidated Revenue Fund for the purpose of establishing the Trust.

### **Notice of low balance**

(2) After March 1 but before March 8 in each year the trustee shall provide written notice to the Minister and the chair of the panel if the balance of the funds remaining in the Trust is less than \$425,000.

### **Increase of funds**

(3) On receipt of a notice described in subsection (2), the balance of funds remaining in the Trust shall be increased to \$425,000 by payment into it from the Consolidated Revenue Fund.

### **Additional appropriations**

(4) The Legislature may provide for an appropriation of money as may be required in excess of the amounts provided for in subsections (1) and (3).

### **Audit**

**15** (1) The Auditor General appointed under the *Auditor General Act* may conduct an audit of the accounts and financial transactions of the Trust.

### **Contents of audit**

(2) When the Auditor General conducts an audit under subsection (1), the Auditor General shall examine,

- (a) whether funds were expended from the Trust other than for a purpose under this Act; and
- (b) whether funds were expended from the Trust without due regard to economy and efficiency.

### **Access to information and records**

(3) Sections 10, 11, 11.1, 11.2, 27.1 and 27.2 of the *Auditor General Act* apply, with necessary modifications, with respect to the Auditor General's audit.

### **Report to Minister**

(4) The Auditor General shall report to the Minister on and make public any matter arising out of the audit that, in the opinion of the Auditor General, should be brought to the attention of the Minister.

### **Not a Crown agent**

**16** The panel, the panel members and the trustee are not agents of the Crown in right of Ontario for any purpose, despite the *Crown Agency Act*, and shall not hold themselves out as such.

### **Protection from liability**

**17** (1) Subject to subsection (3), no cause of action arises against,

- (a) a member of the panel as a result of any act done in good faith in the performance or intended performance of the member's duties or any alleged neglect or default in the performance in good faith of the member's duties;
- (b) the Crown, a Minister of the Crown or an employee of the Crown as a result of any act or omission of a person who is not a Minister of the Crown or a Crown employee if the act or omission is related, directly or indirectly, to the panel, a member of the panel, the Trust, the trustee or to the administration of this Act.

**Same**

(2) No proceeding, including but not limited to a proceeding for a remedy in contract, restitution, tort or trust, shall be instituted against,

- (a) a member of the panel by a person who has suffered any damages, injury or other loss based on or related to any cause of action described in clause (1) (a);
- (b) the Crown, a Minister of the Crown or an employee of the Crown by a person who has suffered any damages, injury or other loss based on or related to any cause of action described in clause (1) (b).

**Crown liability**

(3) Despite subsections 5 (2) to (4) of the *Proceedings Against the Crown Act*, subsections (1) and (2) do not relieve the Crown of liability in respect of a tort committed by a servant or agent to which the Crown would otherwise be subject.

**Rules as to perpetuities not applicable to Trust**

**18** The rules of law and statutory enactments relating to perpetuities do not apply to the Trust and the Trust shall be deemed to be a valid charitable purpose trust under the laws of Ontario.

**Regulations**

**19** The Lieutenant Governor in Council may make regulations,

- (a) prescribing other substances for the purposes of the definition of "contaminant" in section 2;
- (b) prescribing and governing anything described in this Act as being prescribed in the regulations;
- (c) prescribing limitations on the remuneration of the panel members or persons authorized under subsection 3 (5) to participate in the panel's meetings and the reimbursement of their expenses, if any;
- (d) generally for carrying out the purposes, provisions and intent of this Act.

**Commencement**

**20** The Act set out in this Schedule comes into force on the day the *Stronger, Fairer Ontario Act (Budget Measures), 2017* receives Royal Assent.

**Short title**

**21** The short title of the Act set out in this Schedule is the *English and Wabigoon Rivers Remediation Funding Act, 2017*.

## Grassy Narrows/Wabaseemoong First Nations and Mercury

### Issue:

On January 17, 2017, Prime Minister Justin Trudeau announced that the federal government will work with the Province of Ontario to 'remedy' the legacy mercury contamination that has impacted Grassy Narrows and Wabaseemoong First Nations. The legacy contamination of the English-Wabigoon river system has impacted the First Nations food chain, health, environment and economy and has been an ongoing issue in these communities since 1962.

### Demographics:

Grassy Narrows First Nation has a registered on-reserve population of 964 (2011 Census). The Wabaseemoong Independent Nations has an on-reserve population of 970 (2011 Census). Grassy Narrows and Wabaseemoong are both members of the Bimose Tribal Council. According to Health Canada, and their review of the health and mercury related data accumulated over the past 45 years, there are no data to confirm whether there is a greater rate of disability or significant health problems, in comparison to other First Nations, in either Grassy Narrows or Wabaseemoong First Nations at this time.

### Context:

In 1970, mercury contamination to the English-Wabigoon river system from two upstream Dryden, Ontario companies, Reed Incorporated and Great Lakes Forest Products, was discovered. The mercury contamination occurred from 1962-1969, with estimates of 10,000 kg of mercury directly released into the river system. Downstream, Grassy Narrows First Nation and Wabaseemoong Independent Nation were negatively affected by this contamination to their environment, experiencing health, ecosystem and economic decline. The 1986 federal *Grassy Narrows and Islington Indian Bands Mercury Pollution Claims Settlement Act* ([link](#)) and provincial *English and Wabigoon River Systems Mercury Contamination Settlement Agreement Act* ([link](#)), mandate compensation for impacted members of these First Nations as well as responsibilities of the other involved parties. The settlement agreements release Canada from all past, present and future legal claims arising from the historical contamination [REDACTED]

[REDACTED] In addition to Canada's agreed upon commitments in these Acts, the federal government supports future collaborative efforts to remedy the issue.

The Government of Canada (INAC) and the Province of Ontario share the operating costs of the Mercury Disability Board (which encompasses both Nations), contributing \$72,500 each per year, while the Province is solely responsible for funding the account from which

members receive compensation. The Board has processed 1,064 initial applications for benefits since 1986, providing more than \$20 million in compensation to date. As the Board's screening process is symptom-based, recipients do not have to prove they have been impacted by legacy mercury contamination.

Grassy Narrows First Nation has repeatedly requested support from the provincial and federal governments since the 1980s for: cleaning the river system; permanent research funding and monitoring; a health treatment centre; compensation for all community members; improved regulation of industrial pollutants; and the control of other mercury contaminating activities such as provincial forestry. Wabaseemoong Independent Nations has been less vocal with their requests but it is clear that they will expect the same attention and compensation as Grassy Narrows.

Health Canada and provincial sampling has never detected mercury in the community drinking water. Health Canada has also supported the province in optimizing and upgrading the public drinking water system to respond to non-mercury related water quality concerns.

On August 27, 2015 Grassy Narrows declared a state of emergency over fears of unsafe drinking water in their community after tests indicated the presence of trihalomethanes and disinfectant by-products. The emergency order has not been rescinded despite both the Ontario Ministry of Environment and Climate Change (MOECC) and Health Canada advising that the water is safe to consume as long as the boil water advisory is followed.

#### **Key Developments:**

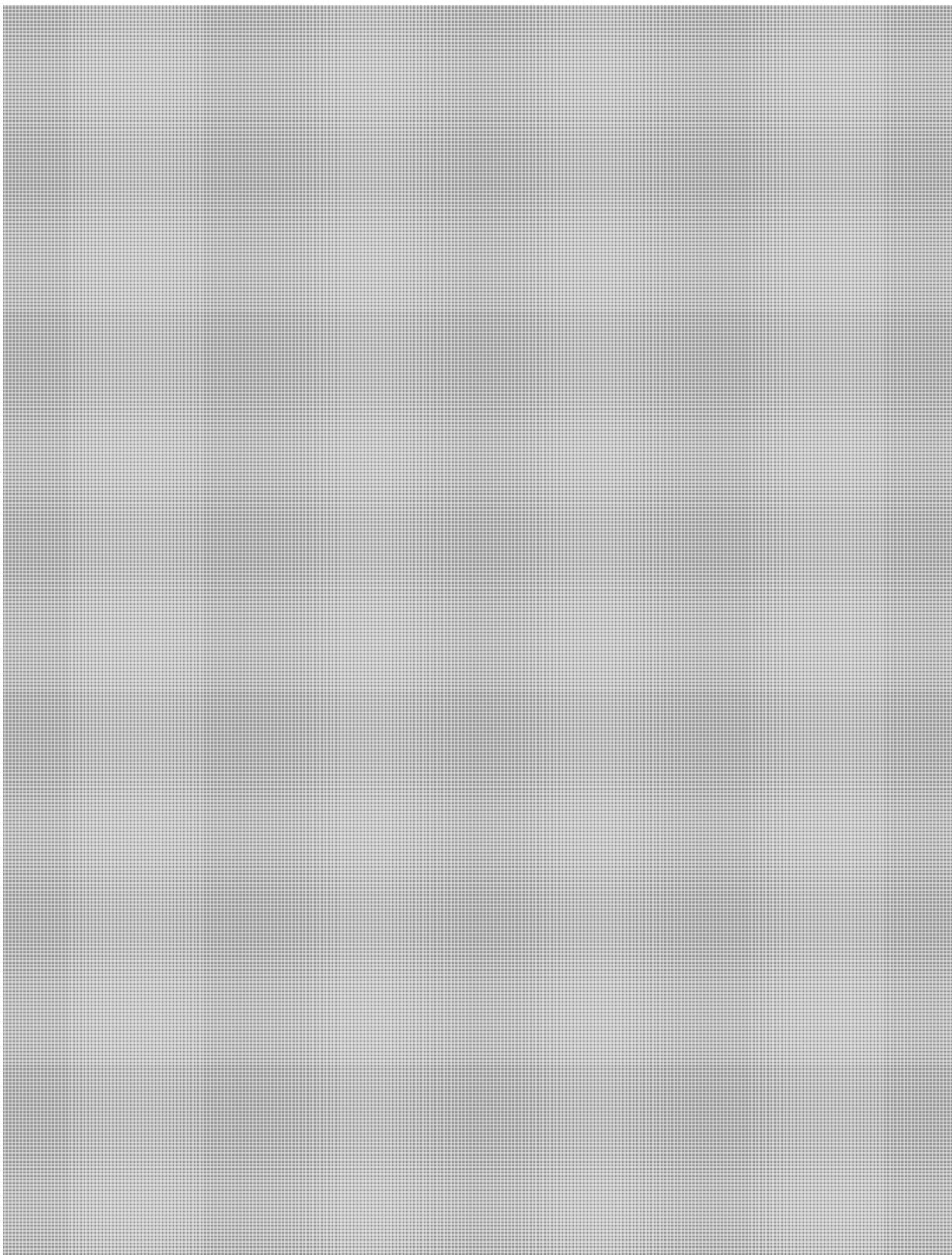
- **Existing Sources of Mercury Contamination:** In-depth knowledge of existing or continuing contamination of the 36 km long river is lacking. In 2016, Kas Glowacki, a former worker of the Dryden paper mill, indicated he had helped to bury more than 50 barrels of mercury in a pit near the mill in the early 1970s. The property is now owned by Domtar, and the Ontario Ministry of Environment and Climate Change had conducted geophysical work in the suspected area but did not locate the barrels.
- Earthroots, an environmental company, sampled another area on Domtar lands and reported elevated levels of mercury. The Ontario Ministry of Environment and Climate Change will review the new information and conduct further sampling.
- **Research:** Health Canada has supported research in the area, almost continuously since the 1970s. Since 2000, this includes funding extensive research, led by the First Nations, with more recent involvement in environmental studies. The results of these studies indicate that since the mid-1980's, the level of mercury in people have been below Health Canada acceptable levels. There are still elevated levels of

mercury in specific fish and wildlife species. INAC understands that community members are aware of the results of the First Nations led studies. Community members have been informed of the studies, but continue to hunt and fish in the English-Wabigoon river system.

- **Community Health Assessment:** The Province of Ontario and Health Canada, at the request of Grassy Narrows First Nation, are funding an intensive three year community health study, currently in year two. This study should help to reinforce previous Health Canada findings or identify any new issues of concern.
- **Mercury Working Group:** In 2013, Ontario's Minister of Aboriginal Affairs established the Grassy Narrows Mercury Working Group. Health Canada and INAC have representatives on the Working Group, along with the Province and Grassy Narrows band members (the Wabaseemoong First Nation is not a participant).
- In June of 2016, the provincial government announced funding of \$600,000 to continue Mercury Working Group initiatives and to build upon existing research in the English-Wabigoon River system. INAC Ontario Region visited Grassy Narrows in June 2016, along with Provincial Ministers David Zimmer and Glen Murray.
- **Mercury Disability Board:** The Mercury Disability Board completed a review in 2016, but the findings have yet to be discussed amongst the parties.



**Next Steps:**





Attached

Annex A (Research and Health Studies)

Annex B (Additional Information on Environmental issues, Economic Development, Land Use Planning, Water and Wastewater Treatment and Other Community Infrastructure)

## Annex A (Research and Health Studies):

- Health Canada and Ontario have funded research and studies led by Grassy Narrows and have acted as technical support throughout these studies, which include:
  - **Testing of residents for mercury in hair and blood**, offered from 1970 to 2000, ended when the community stopped submitting samples. Health Canada continues to offer mercury testing to any individual from both communities who require mercury analysis. As of 1987, the annual hair and blood test results were consistently below the Health Canada safety guidelines for the general population.
  - **Mercury exposure and developmental research in children**. Original studies that analyzed cord blood samples from 172 individuals (babies), were completed from 1978-1992, with levels below Health Canada guidelines since 1984. A follow up study on 139 individuals was completed in 1995-1996, with subjects undergoing hair testing, neuropsychological and sensory-motor testing. The study confirmed that mercury levels had decreased in Grassy Narrows over the course of the study and that no children were at risk. The study was unable to confirm a relationship between child development and mercury exposure.
  - Health Canada funded Grassy Narrows to lead several research studies related to **mercury levels in the environment** with respect to traditional foods and the surrounding ecosystem. With respect to traditional food, studies from 2008-2009 indicated that mercury exceeded the Health Canada guidelines for fish flesh from predatory fish such as walleye and northern pike. In addition, fish eating mammals such as otter and mink had elevated mercury levels. These studies were led by hunters, fishers and trappers of Grassy Narrows and included women's, Elders' and Anishinabek knowledge holders perspectives on the impact of contamination on their communities. Injustice, health and environmental impacts, as well as the jeopardized state of their "fundamental ability to traditionally harvest in order to feed and support (their) families, as (they) have for millennia..." are the main concerns summarized in these studies. A separate 2012 University of Toronto study, using 200-2010 Province of Ontario data, found that mercury concentrations in sports fish (walleye, northern pike and lake whitefish) were elevated in the English-Wabigoon river system in comparison to other Northwestern Ontario water bodies.

**Annex B (Additional Information on Environmental issues, Economic Development, Land Use Planning, Water and Wastewater Treatment and Other Community Infrastructure)**

**Waste Management:** Funding is available in 2017-18 through Budget 2016 investments to improve waste management on First Nation reserves. A needs assessment is being conducted for all First Nations in 2016-17 that will inform future waste management investments.

*Grassy Narrows :* [REDACTED]

*Wabaseemoong Independent Nations:* [REDACTED]

**Contaminated Sites:** Funding is available through Phase III of the Federal Contaminated Sites Action Plan and Budget 2016 to accelerate remediation of contaminated sites.

*Grassy Narrows:* There are four contaminated sites identified in INAC's contaminated sites database. One is a third party site that is not the responsibility of the federal government. Two relate to fuel tank contamination and are considered class 3 (low risk). One is an active landfill. [REDACTED]

*Wabaseemoong Independent Nations:* There are no contaminated sites identified in INAC's contaminated sites database.

**Economic Development:**

*Grassy Narrows:* INAC provided \$55K to the First Nation in 2016-17 and 2015-16 to support community economic development.

*Wabaseemoong Independent Nations:* INAC provided \$72,300 in 2015-16 to support community economic development programs.

**Land Use Planning:**

INAC has launched a Land Use Planning and Survey Initiative to support community land and environmental management, infrastructure investments and comprehensive community planning. Funding is available in 2017-18 to support land use planning and land survey activities in these communities.

## Water and Wastewater Treatment Facilities

**Grassy Narrows: Water Treatment Systems:** there are two communal wells (identified as high risk) and one community water treatment system (identified as medium risk). A do not consume order is in place for the communal wells and in 2016/17 INAC funded Grassy Narrows bottled water distribution (\$56,054.09) for community members affected by this order. Health Canada has stated that water from the community water treatment system is safe to drink, as long as the boil water advisory is followed. In 2016/17, INAC funded water treatment plant assessment and options (\$10,000).

[REDACTED]

The wastewater treatment system is identified as medium risk.

**Wabaseemoong Independent Nations:** The water supply treatment system is identified as medium risk.

The wastewater treatment system is identified as high risk.

## Other Community Infrastructure

**Grassy Narrows:** In 2016/17, INAC has funded construction of housing units (\$615, 960), and the servicing of 6 lots (\$125,000).

[REDACTED]

**Wabaseemoong Independent Nations:** received \$5,000 in 2016/17 to begin a school demolition and site restoration.

[REDACTED]